

dence counter to the proof now proposed to be offered by the complainant, will be introduced by the defendant. Indeed the evidence already produced since the hearing, show, that there will be no difficulty in procuring such proof.

The petition, therefore, must, in my opinion, be dismissed.

The counsel in this cause whose names should have been inserted in the previous report, are :

ISAAC D. JONES, and JOHN H. DONE, for Complainants.

W. W. HANDY, JOHN W. CRISFIELD and CORNELIUS McLEAN, for Defendants.

CHARLES OLIVER ET AL.

vs.

MARY CATON ET AL.

} SEPTEMBER TERM, 1847.

[REMEDY OF PURCHASERS—POWER OF THE COURT—RIGHTS OF TENANTS AND LESSEES IN POSSESSION.]

It is well established, that this court has the power in a proper case, to put the purchaser of lands under its decrees in possession, by an order passed upon the petition of the purchaser, such an authority being deemed indispensable to the full and complete administration of justice.

But this authority is restricted to those cases in which the persons holding the possession against the purchaser, are either parties to the proceedings, and whose rights are consequently determined by the decree, or persons who come into possession *pendente lite*, claiming title to the land, under the parties to the bill or some of them.

Where the party, who is in possession, acquired his title prior to the institution of the proceedings in which the decree passed, it would be irregular and improper to investigate and pass judgment upon it, in this summary manner, by way of motion.

Occupying tenants and lessees, claiming title under the party against whom the decree passes, must be made parties to the suit, if it is intended to conclude their rights thereby; and if the existence of their rights is suggested to the court at the hearing, it will so frame the decree, as expressly to guard them from prejudice.

In this case, the party in possession claimed title under a lease for ninety-nine years, renewable for ever, executed long prior to the institution of the pro-